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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,444	10/09/2003	Patrick C. St. Germain	SSS-106	9792

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11/02/2007

EXAMINER
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TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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11/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/682,444  
Filing Date: October 09, 2003  
Appellant(s): GERMAIN, PATRICK C. ST.

MAILED

NOV 02 2007

Group 3700

Talivaldis Cepuritis  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 09/13/2007 appealing from the Office action mailed 03/13/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,088,707	Stemmler	02/1992
3,942,782	Hermach	03/1976
4,824,426	DuFresne	04/1989

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

Claims 11, and 13-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmler (U.S. Patent No. 5,088,707) in view of Hermach (U.S. Patent No. 3,942,782).

Stemmler discloses an apparatus for interfolding at least two sheets of material for forming a web of interfolded sheets of material, the apparatus comprising at least two dispensers providing sheets of material (Figs. 1-3; via W1 and W2); an inter-folder downstream from the dispensers and comprising a pair of folding rollers for receiving preformed sheet material from each of the dispensers and producing interfolded sheets of material (Figs. 1-3; via folding rollers 12 and 13).

Stemmler does not disclose performing dispensers to provide at least one longitudinally extending fold line and at least one fold respectively. However, Hermach discloses a similar apparatus comprising means for dispensing two different sheets and longitudinally folding the sheets (Fig. 2; via 26A-26C and 22A-22C).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Stemmler's folding apparatus by having the longitudinal folds to the sheets, as suggested by Hermach, in order to improve the apparatus for associating and folding the respective sections of multi sectioned, bulky newspapers (column 2, lines 1-4).

Regarding claim 13: Stemmler discloses that the sheets of material respectively include a plurality of spaced apart transversely extending perforation lines (column 2, lines 50-52).

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Regarding claim 14: Stemmler discloses that knife rolls between the dispensers and the folding rolls for clean cutting the interfolded sheets of material (Figs. 1-3; via cutting rollers 30).

Regarding claim 15: Stemmler discloses that perforating rolls perforating the interfolded sheets of material (column 12, lines 21 and 22).

Regarding claim 16: Stemmler does not disclose that the dispensers are folding boards. However, Hermach discloses a similar apparatus with having the dispensers serving as folding boards (Fig. 2; via 26A-26C and 22A-22C).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Stemmler's folding apparatus by having the dispenser being folding boards, as suggested by Hermach, in order to improve the apparatus for associating and folding the respective sections of multi sectioned, bulky newspapers (column 2, lines 1-4).

Claim 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Stemmler (U.S. Patent No. 5,088,707) in view of Hermach (U.S. Patent No. 3,942,782) as applied to claim 11 above, and further in view of DuFresne (U.S. Patent No. 4,824,426).

Stemmler in view of Hermach do not disclose the claimed double "c" shaped fold as described in page 3 lines 29-31 and page 4, lines 1 and 2 of the filed specification of the invention. However, DuFresne discloses such "c" shaped folds as seen in Fig. 3.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Stemmler in view of Hermach folding apparatus, by folding means to fold the sheet to the double fold "c" type, as suggested by DuFresne, in order to

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provide a starter tab for manual grasping to remove the web segments from a container (column 1, lines 66-68).

*Appellant's arguments with respect to claims 11, 14, and 16 have been considered and alternatively are moot in view of the new ground(s) of rejection.*

***Claim Rejections - 35 USC § 102***

Claims 11, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hermach (U.S. Patent No. 3,942,782).

Hermach discloses an apparatus for interfolding at least two sheets of material for forming a web of interfolded sheets of material, the apparatus comprising: a) at least two dispensers preforming sheets of material (Fig. 2; via 26A-26C and 22A-22C) to provide at least one longitudinally extending fold line and at least one fold respectively; and b) an interfolder downstream from said dispensers and comprising a pair of folding rolls (Fig. 2; via folding rollers 38) for receiving preformed sheet material from each of the dispensers and producing interfolded sheets of material (via receiving the longitudinal folded sheets to further fold the sheets cross wise; column 5, lines 9-14). Note that broadly considering the claimed "interfolder" for producing "interfolded sheets of material" could be nothing more than folding the folded sheets stacked on top of each other to form the claimed "interfold", see for example (Fig. 5; via stacked folded sheets further folded cross wise by the folding rollers 38).

Regarding claim 14: knife roll to cut the sheets (Fig. 2; via cutting cylinder 37).

Regarding claim 16: wherein the dispensers are folding boards (Fig. 2; via former folders 26A-26C and 22A-22C).

#### **(10) Response to Argument**

##### **A. Examiner interpretation of the independent claims:**

During patent examination of the claims, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). See also MPEP 2111. Moreover, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. In re Am. Acad. of Sci. Tech Ctr., 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). See also MPEP 2111.01.

##### **Independent claim 11 recites:**

An apparatus for interfolding at least two sheets of material for forming a web of interfolded sheets of material, the apparatus comprising:

- a) at least two dispensers preforming sheets of material to provide at least one longitudinally extending fold line and at least one fold respectively; and
- b) an interfolder downstream from said dispensers and comprising a pair of folding rolls for receiving preformed sheet material from each of the dispensers and producing interfolded sheets of material.

In the independent claim there are two main structures been claimed:

*First structure:* dispenser of dispensing sheets of material with a longitudinally fold line.

*Second structure:* an interfolder with pair of folding rollers.

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**B. The rejection of claims 11, 15, and 36 under 35 U.S.C. 103(a) is proper and should be affirmed.**

Appellant argues that it would have not been obvious to combine the teaching of Hermach with the primary reference of Stemmler since Hermach describes an apparatus for folding newspaper, that has nothing to do with interfolding webs of material.

Appellee is aware that there are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998). See also MPEP 2143.01.

In this instance, Stemmler discloses the invention as claimed including the use of an interfolding as clearly shown on Figs. 1-3. The teaching of Hermach was chosen to show appellant that it is obvious to provide a longitudinal fold to sheets prior of feeding them to the apparatus, in order to reduce the width of the sheets.

Additionally, appellant appears to be arguing against non-obviousness by attacking the Hermach reference alone as not the combination of references as a whole. "One cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references." In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). See also MPEP 2145(IV).

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.



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This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

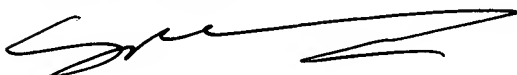
(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

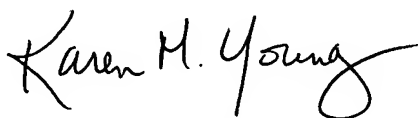
Respectfully submitted,

Sameh H. Tawfik

**SAMEH H. TAWFIK**  
**PRIMARY EXAMINER**



**A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:**



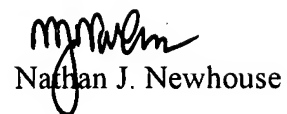
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**Rinaldi I. Rada  
Supervisory Patent Examiner  
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Nathan J. Newhouse